IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 291 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARAT SURYODAYA MILLS CO LTD

Versus

COMMISSIONER OF INCOME TAX

Appearance:

NOTICE SERVED for Petitioner

MR BB NAIK WITH MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 19/01/2000

ORAL JUDGEMENT(Per J.N.Bhatt, J.)

When the matter was called out, again, today, none

appeared for and on behalf of the applicant, whereas, learned counsel Mr B.B.Naik for the respondent was present. For our opinion, the following question has been referred by the Income-tax Appellate Tribunal, at the instance of the assessee company:

"Whether in the facts and circumstances of the case the Tribunal was right in law in upholding the disallowance of part provision of Rs.4,64,400/- out of provisions of bonus Rs.8,40,000/- made in the books of account on the basis of the legal liabilities on the date of closing the books of accounts ?"

It is reported by the Office that notice has already been served on the assessee. Despite that, it chose not to appear and assist the Court, presumably, because the assessee may not, now, be inquisitive to have a judicial opinion of this Court, upon the question referred to, at its instance.

Again, this reference is very old and is almost as old as 16 years. In the circumstances, this Court has to raise its hands in helplessness from dealing with the reference sent to us for our opinion in absence of the assessee's appearance and assistance, if not apathy or indifference.

In the result, the reference deserves the only fate of rejection in default. Accordingly, the reference shall stand disposed of as not answered.

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(vjn)